

1                   UNITED STATES BANKRUPTCY COURT  
2                   EASTERN DISTRICT OF MICHIGAN  
3                   SOUTHERN DIVISION

4   IN THE MATTER OF,    Case No. 13-53846  
5   CITY OF DETROIT, MICHIGAN                                      Detroit, Michigan  
6   April 13, 2016  
7    \_\_\_\_\_  
8   11:03 a.m.

9                   IN RE: THIRTY-SIXTH OMNIBUS OBJECTION TO CERTAIN CLAIMS,  
10                   THIRTY-SEVENTH OMNIBUS OBJECTION TO CERTAIN CLAIMS, THIRTY-  
11                   EIGHTH OMNIBUS OBJECTION TO CERTAIN CLAIMS  
12                   BEFORE THE HONORABLE THOMAS J. TUCKER  
13                   TRANSCRIPT ORDERED BY: ROBIN WYSOCKI

14                   APPEARANCES:

15                   For the City of Detroit, MI:                   MARC SWANSON, ESQ. (P71149)  
16   Miller, Canfield, Paddock &  
17   Stone  
18   150 West Jefferson  
19   Suite 2500  
20   Detroit, MI 48226  
21   313-496-7591

22                   Project Manager:                               REBECCA WILHELM  
23   2 Woodward Avenue  
24   CA YMC  
25   Suite 500  
   Detroit, MI 48226  
   313-237-5037

26                   PRESENT:                                       Dianne L. Thomas  
27   Dwayne Brown  
28   Cheryl Minniefield

29                   Court Recorder:                               Jamie Laskaska

30                   Transcriber:                                   Deborah L. Kremlick

31  
32                   Proceedings recorded by electronic sound recording, transcript  
33                   produced by transcription service.

1 (Court in Session)

2 THE CLERK: All rise. This Court is now in session.  
3 The Honorable Thomas J. Tucker is presiding. You may be  
4 seated. The Court calls the case of the City of Detroit,  
5 Michigan, case number 13-53846.

6 THE COURT: All right. Good morning. Let's have  
7 appearances for the record, please.

8 MR. SWANSON: Thank you, Your Honor. Marc Swanson  
9 from Miller, Canfield, Paddock, and Stone on behalf of the  
10 City of Detroit. And with me is Rebecca Wilhelm the project  
11 manager for the City of Detroit.

12 THE COURT: All right. Good morning. For those who  
13 are in the courtroom to be heard regarding the individual  
14 claims in the hearings today regarding specific claims and  
15 objections to claim by the city, unless you have your attorney  
16 you can hold off entering your appearance. Just do that,  
17 enter your appearance by saying your name for the record when  
18 you come up to be heard about your claim. So, are there any  
19 attorneys here, other attorneys?

20 MS. MINNIEFIELD: Can we -- can we turn up the  
21 volume, I can't hear.

22 MS. THOMAS: I can't hear you, Your Honor. I can't  
23 hear you back here.

24 THE COURT: You didn't hear what I just said?

1           MR. BROWN: Just kind of then when you spoke then, I  
2 heard you.

3           THE COURT: I don't understand that. We have --  
4 we've been testing our sound.

5           MS. THOMAS: I have -- I have a slight hearing loss  
6 that's probably why couldn't hear you.

7           THE COURT: What is your name, Ma'am?

8           MS. THOMAS: I'm Dianne Thomas.

9           THE COURT: Are you an attorney?

10          MS. THOMAS: No, I'm just representing myself.

11          THE COURT: All right. If you want to be heard  
12 about it -- your claim, wait until your claim comes up in the  
13 hearings today is what I'm saying. And then you can come up,  
14 you can give your name and we can go from there.

15          MS. THOMAS: Okay.

16          THE COURT: Did you hear what I just said?

17          MS. THOMAS: I just -- I did now.

18          THE COURT: Can everybody else hear what I'm saying?

19          MR. BROWN: Yes, sir.

20          THE COURT: All right. Thank you. Mr. Swanson,  
21 let's hear from you now first. The case is here today on  
22 three omnibus claim objections filed by the city for hearing.  
23 And so let's talk about those, please. Go ahead. And I guess  
24 I'll have to ask you to speak up and into the microphone,  
25 please.

1                   MR. SWANSON: Certainly. Thank you, Your Honor.  
2 The first omnibus objection is a thirty-sixth omnibus  
3 objection. There are three responses that were filed which  
4 I'm not subject to hearing on June 15<sup>th</sup>. I have copies of the  
5 order adjourning certain of the responses to June 15<sup>th</sup> if the  
6 Court would like me to distribute those or identify the  
7 individuals who are listed on that order.

8                   THE COURT: That's -- I don't think that's necessary  
9 unless any of those individuals turn out to be here in the  
10 courtroom and want to be heard. Then we can -- we can deal  
11 with that. You did serve the order adjourning on those  
12 individuals, so hopefully they got a copy of it no later than  
13 Monday as designed, right?

14                  MR. SWANSON: Yes, Your Honor.

15                  THE COURT: All right.

16                  MR. SWANSON: So, Your Honor, the three --

17                  THE COURT: No, just a minute. Perhaps -- perhaps  
18 actually you should read the names. What I'm going to do is  
19 ask the attorney for the city, Mr. Swanson here to read off  
20 the names of individuals whose claim -- claims which were  
21 subject to objection in the debtor's -- the city's  
22 thirty-sixth omnibus objection, those claims for which the  
23 hearing has been adjourned to -- from today until a later  
24 date, June 15 at 1:30 p.m. by an order that the Court entered

1        And if any of the individuals whose names are now going  
2 to be read are in the courtroom, please come forward, we'll  
3 make sure that you are aware of the adjournment order and if  
4 necessary, have a copy of it. So please listen for your name.  
5 Now, Mr. Swanson, go ahead. Which are the -- read off please  
6 the names of those creditors who have claims objected to by  
7 the thirty-sixth omnibus objection whose hearing on which is  
8 being adjourned to June 15<sup>th</sup>.

9                    MR. SWANSON: Thank you, Your Honor. Aldrina  
10 Thomas, Lucille Pasha, Francine Duncan-Martin, Natalie  
11 Clemons, JaJuan Moore, Janice Clarke, Lenetta Walker, and --  
12 and one of the two claims filed by Dwayne A. Brown, the second  
13 claim will be heard today.

14                   THE COURT: All right. So are any of the  
15 individuals whose names have just been read present? Sir, you  
16 are?

17                   MR. BROWN: Dwayne Brown.

18                   THE COURT: All right. Mr. Brown, you can wait  
19 until we get to your claim that's being heard today. You  
20 understand, I hope, that the hearing on one of your two  
21 claims, the objection to one of your two claims has been  
22 adjourned. Do you -- do you -- did you get the adjournment  
23 order?

24                   MR. BROWN: No, I didn't.

1 that order. Or do you have extras?

2 MR. SWANSON: I have ten copies, Your Honor.

3 THE COURT: Would you hand a copy of that order to  
4 Mr. Brown, please?

5 MR. SWANSON: Sure. Thank you, Your Honor.

6 THE COURT: All right. Thank you. Go ahead.

7 MR. SWANSON: Cheryl Minniefield, Dwayne A. Brown,  
8 and Kendra McDonald filed responses to the thirty-sixth  
9 omnibus objection that are scheduled to be heard today.

10 Your Honor, I will begin with the response filed by  
11 Cheryl Minniefield. That response, corrected response,  
12 appears at docket number 11040.

13 Ms. Minniefield filed three claims in the city's  
14 bankruptcy case 3289, 3292, and 3294. Claim 3292 was listed  
15 on Exhibit 2 to the thirty-sixth omnibus objection. The other  
16 two claims, 3289 and 3294 were not.

17 The stated basis for those other two claims related to  
18 litigation. Minniefield's response, however, addresses those  
19 two claims that were not listed on Exhibit 2 and fails to  
20 address the one claim that was listed on Exhibit 2 or provide  
21 any documentation in support of claim 3292 which was the claim  
22 listed on Exhibit 2 to the thirty-sixth omnibus objection.

23 Consequently the city's objection to claim 3292 should be  
24 sustained. For these reasons the city asks that the Court

1           THE COURT: Is the creditor Cheryl Minniefield  
2 present?

3           MS. MINNIEFIELD: Yes.

4           THE COURT: Would you come up, please, to the  
5 podium? All right. Good morning. Would you state your name  
6 for the record, please?

7           MS. MINNIEFIELD: Cheryl Minniefield.

8           THE COURT: All right. Ms. Minniefield, good  
9 morning. And you've heard what Mr. Swanson just had to say  
10 about the objection that's being heard today to one of your  
11 three filed claims. What do you want to say about this? And  
12 by the way I did review the response and -- and corrected  
13 response that you filed to the objection. Go ahead.

14           MS. MINNIEFIELD: Okay. What I want to say is that  
15 in my response I did not indicate by documentation that I have  
16 that supports my -- my claims, but I do have documentation to  
17 support my claims. And if I may I can indicate them at this  
18 time. And I --

19           THE COURT: Well, you've got three claims that you  
20 filed.

21           MS. MINNIEFIELD: Uh-huh.

22           THE COURT: There's one that's for it looks like  
23 it's claim 3289 it's for \$2,000,000. And the basis for claim  
24 on the proof of claim form it says discrimination (EEOC).

1 THE COURT: Case number, civil number 12-13479.

2 MS. MINNIEFIELD: Uh-huh.

3 THE COURT: You got another claim 32 -- number 3294.

4 MS. MINNIEFIELD: Uh-huh.

5 THE COURT: Proof of claim filed and that's in the  
6 amount of \$500,000.

7 MS. MINNIEFIELD: Uh-huh.

8 THE COURT: The basis stated for that claim is,  
9 "unjust discharge-civil service case number 2011-5". So  
10 you've got those two claims. Just let's be clear that those  
11 two claims are not the subject of the city's thirty-sixth  
12 omnibus objection to claims. For purposes of today's hearing  
13 we're not hearing any objections to those two claims.

14 MS. MINNIEFIELD: Uh-huh.

15 THE COURT: So what we're doing today on this  
16 thirty-sixth omnibus objection has no effect on those.

17 MS. MINNIEFIELD: Uh-huh.

18 THE COURT: What's -- what we are talking about is  
19 the city's objection to your other -- your third claim, claim  
20 3292.

21 MS. MINNIEFIELD: Uh-huh.

22 THE COURT: The proof of claim form that you filed  
23 on that says the amount of the claim is \$5,000. Basis for  
24 claim it says, "unpaid time bank, i.e. vacation/swing  
25 holiday".

1 MS. MINNIEFIELD: Uh-huh.

2 THE COURT: So that's the proof of claim and the  
3 claim that we're talking about today. Do you understand what  
4 I've just said about that?

5 MS. MINNIEFIELD: Yes.

6 THE COURT: All right. So what do you want to say  
7 about the city's objection to that claim?

8 MS. MINNIEFIELD: Well, I want to indicate that I do  
9 have support -- supporting documentation for that claim which  
10 was not indicated on the response. And as -- as the support  
11 for that claim, is --

12 THE COURT: Well, why didn't you file the  
13 documentation when you responded to the objection to claim or  
14 with your proof of claim?

15 MS. MINNIEFIELD: I did not -- I did not realize  
16 that that particular claim number was assigned to that -- that  
17 -- to that issue, okay. Once I did get a hold of my the --  
18 the document -- the claim that was filed, I indicate -- I saw  
19 where that particular claim number was assigned to that issue.  
20 So, you know, so I did not -- that's how I -- I did not have  
21 the information at hand to respond to it correct.

22 THE COURT: Well, what do you want to say about the  
23 documentation that you say you have and about this claim,  
24 then?

1 documentation to support that that is owed to me. My  
2 documentation, I filed a claim with the City of Detroit  
3 ombudsman's office and I got a letter -- they investigated and  
4 I got a letter back from the ombudsman's office regarding that  
5 issue, that that -- that I was denied my bank -- the vacation  
6 time, swing holiday time per the director and the assistant  
7 director. Per the -- because due to the unjust discharge that  
8 I -- I received. And that's the answer -- that's the proof  
9 that I have that I am owed that and that I was denied that.

10 THE COURT: Well, is this \$5,000 claim then that  
11 we're talking about part of the -- the relief that you're  
12 seeking in either your civil service case or your lawsuit?  
13 You filed a lawsuit in a civil service case apparently about  
14 discrimination and unlawful discharge, is that right?

15 MS. MINNIEFIELD: Right.

16 THE COURT: Is the 5,000 that you're talking about  
17 here, the claim relating to the unpaid vacation time and the  
18 swing holiday part of the -- the relief that you're already  
19 seeking --

20 MS. MINNIEFIELD: No.

21 THE COURT: -- in connection with your other claims,  
22 that's what I'm asking.

23 MS. MINNIEFIELD: No.

24 THE COURT: No?

1           THE COURT: Well, go on, what else did you want to  
2 say about it?

3           MS. MINNIEFIELD: That's a separate issue. Because  
4 the other claims -- my other case, the unjust discharge is --  
5 well, I guess the only thing that -- the -- the unjust  
6 discharge is what is -- what is stated that is denying me my  
7 bank -- my on time that I earned, you know, doing working.  
8 And they're saying no, we're not going to give it to you  
9 because you know, of this, the unjust discharge.

10          THE COURT: Well, are you contending that even if  
11 the discharge is not found to be wrongful.

12          MS. MINNIEFIELD: Uh-huh.

13          THE COURT: You're still entitled to this \$5,000, is  
14 that what you're saying or not? Or that that's part of it.

15          MS. MINNIEFIELD: Yes, I am. I am. I am entitled to  
16 it.

17          THE COURT: You are. Okay. Why is it you're  
18 entitled to that even if your discharge was proper?

19          MS. MINNIEFIELD: Well, because I -- I earned it.  
20 It's in my bank that I got paid my sick time out of the bank,  
21 the sick time, the vacation time, the swing holiday. They --  
22 I got paid my sick -- my sick time, but I don't see why I  
23 earned the sick time, I got paid that. Why I earned the  
24 vacation and the swing holiday time. So why -- why -- why do  
25 I not get that.

1           THE COURT: All right. What documentation is it  
2 that you have for this claim that you referred to? What --  
3 what documentation do you have? This -- this exchange of  
4 letters with the ombudsman, is that what you're talking about?

5           MS. MINNIEFIELD: I have the letter from the -- the  
6 -- the documentation from the ombudsman. At this time I don't  
7 have -- I had a print out of my bank, okay, that I was denied.  
8 Okay. I don't have -- I'm sorry, but I don't have that bank  
9 -- that here with me. But I have a print out of that.

10          And but -- and when I could not get that I went to the  
11 ombudsman and filed a complaint that they -- they were not  
12 paying me that. And that's why they -- that's, you know, so  
13 that's where that stopped at.

14          THE COURT: So you wrote a letter to the ombudsman  
15 and you got a reply back?

16          MS. MINNIEFIELD: Yes.

17          THE COURT: Do you have those documents?

18          MS. MINNIEFIELD: Yes.

19          THE COURT: Well, you need to share those with the  
20 attorney for the city here, Mr. Swanson.

21          MS. MINNIEFIELD: Okay.

22          THE COURT: Do you have extra copies?

23          MS. MINNIEFIELD: No, not of that. I have --

24          THE COURT: Well, you know, the city's counsel needs  
25 to see the documentation. They need to have it.  
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1 MS. MINNIEFIELD: Okay. I'm sorry.

2 THE COURT: That's the whole point of their  
3 objection to -- to your claim.

4 MS. MINNIEFIELD: Okay. Well, I apologize to the  
5 Court because I did not really totally understand those --  
6 that that was the -- that was it of the -- the only objection  
7 was to that particular claim. And I prepared, you know,  
8 information to -- that would -- you know, would support my  
9 other -- all of these claims, the documents that I do have and  
10 I did bring copies of all those other -- everything. But I  
11 didn't have the -- I didn't bring copies of that particular  
12 document, the -- the letter. I do have the letter, but I  
13 don't have copies.

14 THE COURT: All right. Anything else you want to  
15 say before we hear again from Mr. Swanson about this?

16 MS. MINNIEFIELD: On that, no.

17 THE COURT: Mr. Swanson, what do you want to say  
18 about this? Obviously you haven't seen this documentation  
19 yet.

20 MR. SWANSON: No, Your Honor, we haven't seen the  
21 documentation yet. I guess on one hand the deadline to file  
22 the documentation with the Court has passed. It wasn't  
23 presented. If -- if the Court's so inclined, I guess the city  
24 would allow Ms. Minniefield seven days to file the  
25 documentation with the Court and we could set this for hearing

1 on April 27<sup>th</sup>. If -- and if the Court would permit the city to  
2 file an additional reply based on the documentation.

3 THE COURT: All right. I'm going to take that  
4 approach to this. Rather than sustaining the objection to Ms.  
5 Minniefield's claim number 3292 at this time, we're going to  
6 continue it for further hearing to be held on Wednesday, April  
7 27<sup>th</sup> at 11:00 a.m. We're having a hearing on other claim  
8 objections that day, April 27, 11:00 a.m.

9 MS. MINNIE FIELD: Uh-huh.

10 THE COURT: Which is two weeks from today. In the  
11 meantime, I will require Ms. Minniefield that you must file  
12 with the Court in the City of Detroit bankruptcy case, a copy  
13 of all documentation that you contend supports your claim  
14 number 3292.

15 MS. MINNIEFIELD: Uh-huh.

16 THE COURT: Just that claim.

17 MS. MINNIEFIELD: Uh-huh.

18 THE COURT: The \$5,000 claim.

19 MS. MINNIEFIELD: Uh-huh.

20 THE COURT: If it says unpaid time bank, i.e.  
21 vacation/swing holiday, that claim.

22 MS. MINNIEFIELD: Uh-huh.

23 THE COURT: And I need you to -- you're going to  
24 need to file that no later than one week from today.

1           THE COURT: April 20, 2016. Then the city may file  
2 a response, a further response regarding your claim.

3           MS. MINNIEFIELD: Uh-huh.

4           THE COURT: Mr. Swanson, what sort of deadline do  
5 you want for that? Is -- is Friday the 22<sup>nd</sup> sufficient time  
6 for that?

7           MR. SWANSON: Yes, Your Honor. Thank you.

8           THE COURT: All right. April 22, will be the city's  
9 deadline to file any response, further response regarding your  
10 claim number 3292.

11          MS. MINNIEFIELD: Uh-huh.

12          THE COURT: And then we'll have a further hearing on  
13 the 27<sup>th</sup> at 11:00 a.m. You'll need to be here for that.

14          MS. MINNIEFIELD: Uh-huh.

15          THE COURT: Unless the city and you reach some sort  
16 of agreement before then --

17          MS. MINNIEFIELD: Uh-huh.

18          THE COURT: -- resolving this dispute about your  
19 claim number 3292.

20          MS. MINNIEFIELD: Uh-huh.

21          THE COURT: Otherwise you'll need to be here for  
22 that further hearing. So I will include -- we will include in  
23 the order that is going to be entered relating to this  
24 thirty-sixth omnibus objection to claims, provisions  
25 reflecting what I just said about the further proceedings

1 we're having regarding your claim.

2 MS. MINNIEFIELD: Uh-huh.

3 THE COURT: I guess Mr. Swanson, we can do that as  
4 as separate order, or we can do it in the -- in the other  
5 order, in the main order. It's up -- I don't care how we do  
6 it. What do you prefer?

7 MR. SWANSON: I can draft it into the main order,  
8 Your Honor.

9 THE COURT: All right. So we'll put that in the  
10 order. And of course a copy of that order after it gets  
11 docketed, the city will mail a copy of that order to Ms.  
12 Minniefield. And Ms. Minniefield, you understand what needs  
13 to be done?

14 MS. MINNIEFIELD: Yes. I mean a week to send --  
15 respond. I send my copies to the Court and to -- and to the  
16 city.

17 THE COURT: Yes. You need to --

18 MS. MINNIEFIELD: And I need to --

19 THE COURT: And you need to file your documentation  
20 in support of your claim.

21 MS. MINNIEFIELD: Yeah, uh-huh.

22 THE COURT: No later than one week from today.

23 MS. MINNIEFIELD: One week, uh-huh.

24 THE COURT: April 20.

1           THE COURT: Don't miss that deadline.

2           MS. MINNIEFIELD: Okay.

3           THE COURT: If you do, your claim -- these claim  
4 objections will be sustained.

5           MS. MINNIEFIELD: Uh-huh.

6           THE COURT: So be sure to make that deadline.

7           MS. MINNIEFIELD: Okay.

8           THE COURT: Get that actually filed with the Court  
9 in the case no later than that day, April 20.

10          MS. MINNIEFIELD: Okay. April 20.

11          THE COURT: Do you have any other questions about  
12 what's -- what the further proceedings are going to be on  
13 this?

14          MS. MINNIEFIELD: No, no.

15          THE COURT: All right. Thank you.

16          MS. MINNIEFIELD: Okay.

17          THE COURT: Mr. Swanson, back to you then. Other  
18 claims.

19          MS. MINNIEFIELD: Can I have one -- can I ask you  
20 one thing? These other claims I have they're not -- they're  
21 not involved in anything?

22          THE COURT: They're not part of this -- the  
23 objections to claim that we're hearing today.

24          MS. MINNIEFIELD: Okay. Uh-huh.

1 MS. MINNIEFIELD: Uh-huh.

2 MR. SWANSON: Thank you, Your Honor. Kendra  
3 McDonald filed a untimely response on April 8<sup>th</sup> and the city  
4 would ask that the Court overrule that response as untimely.

5 THE COURT: Is Kendra McDonald here or is anyone  
6 here on behalf of Kendra McDonald? I hear nothing. Ms.  
7 McDonald has failed to appear today despite having received  
8 notice of today's hearing and the requirement that she appear  
9 today. For that reason and also because Ms. McDonald's only  
10 response to the thirty-sixth omnibus claim objection was filed  
11 untimely. It was filed April 8 at docket 11060 whereas  
12 responses were due to be filed no later than April 6<sup>th</sup>. For  
13 those reasons, the Court will sustain the city's objection to  
14 the claim of Kendra McDonald.

15 MR. SWANSON: Thank you, Your Honor.

16 THE COURT: And you can of course include that in  
17 the order that you're going to prepare.

18 MR. SWANSON: Thank you, Your Honor. The final  
19 claim to be heard with respect to the thirty-sixth omnibus  
20 objection is a claim filed by Dwayne A. Brown. The city  
21 included two claims with Mr. Brown on his thirty-sixth omnibus  
22 objection.

23 One of those claims as we stated earlier will be heard on  
24 June 15<sup>th</sup>, 2016 at 1:30. The second claim filed by Mr. Brown

1 city has conducted some further due diligence on this claim.  
2 Mr. Brown is a member of the general retirement services and  
3 -- and the city would propose classifying this claim as a  
4 Class 11 GRS pension claim, or if Mr. Brown would not agree to  
5 that today the city would withdraw its objection with respect  
6 to this claim.

7 THE COURT: Mr. Brown.

8 MR. BROWN: Yes.

9 THE COURT: Please come up.

10 MR. BROWN: Good morning, Your Honor.

11 THE COURT: Good morning. Mr. -- say your name for  
12 the record, please.

13 MR. BROWN: Dwayne Brown.

14 THE COURT: All right. Good morning, Mr. Brown. As  
15 I understand it Mr. Swanson, the claim of Mr. Brown of the two  
16 claims he filed, the claim being heard today is claim -- is --  
17 concerns the city's objection regarding claim number 2984.  
18 That's the pension claim you've described, is that correct?

19 MR. SWANSON: Yes, Your Honor.

20 THE COURT: All right. So Mr. Brown, with respect  
21 to that claim, the city's attorney is proposing that the Court  
22 order that that claim be classified as a Class 11 GRS -- GRS  
23 pension claim. Do you have any objection to that?

24 MR. BROWN: What is that? What is it, I don't know

25 what it --  
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1           THE COURT: That means it will be classified in  
2 Class 11 and given the treatment of claims in Class 11,  
3 pension claims in Class 11 which if you want a description of  
4 what that treatment is, you can talk to your own attorney.

5           MR. BROWN: Uh-huh.

6           THE COURT: Mr. Swanson can describe it briefly,  
7 but that's -- you know, I'm not going to go through all that.  
8 So what do you want to say?

9           MR. BROWN: Yes, I agree.

10          THE COURT: Pardon me?

11          MR. BROWN: I will, I agree.

12          THE COURT: All right. So Mr. Swanson, you'll  
13 include in the order to be entered a provision that says that  
14 Mr. Brown's claim number 2984 is reclassified as a Class 11  
15 GRS pension claim?

16          MR. SWANSON: Yes, Your Honor.

17          THE COURT: All right. Thank you, Mr. Brown.

18          MR. BROWN: Can I say something, Your Honor?

19          THE COURT: Yes.

20          MR. BROWN: I don't have any information on the  
21 original filings. It was -- I think under a class action, but  
22 with my union or something.

23          THE COURT: I don't know what you're talking about,  
24 Mr. Brown, but it's not a matter that's up for hearing today.

1       objected to as I understand it is the claim -- your other  
2       claim. It's -- which is being adjourned for hearing to be  
3       held June 15. That is claim number 2997 for \$750.00. That's  
4       being adjourned. And the order that Mr. Swanson gave you a  
5       copy of earlier is the order that adjourns the hearing on that  
6       to June 15<sup>th</sup> and it sets out procedures regarding that claim  
7       along with the others. So read that order and that hopefully  
8       will answer your questions.

9                   MR. BROWN: Okay.

10                  THE COURT: Anyway, thank you.

11                  MR. BROWN: Okay. Thank you.

12                  THE COURT: So Mr. Swanson, back to the thirty-sixth  
13 omnibus objection. That deals with everything then, is that  
14 correct?

15                  MR. SWANSON: That's correct, Your Honor.

16                  THE COURT: With respect to all of the other claims  
17 that are the subject of that objection that were not -- that  
18 -- which have not been adjourned by the prior order that we  
19 haven't talked about today you're asking for an order  
20 sustaining the city's objection to the claim.

21                  MR. SWANSON: Yes, Your Honor.

22                  THE COURT: And that will be granted. There was no  
23 timely response filed by the other creditors with respect to  
24 the city's objection and it will be -- and it will be  
25 sustained. So you'll prepare a proposed order reflecting all

1 of this regarding the thirty-sixth omnibus objection?

2 MR. SWANSON: Yes, Your Honor.

3 THE COURT: Thank you.

4 MR. SWANSON: Your Honor, the next objection set for  
5 hearing today is the thirty-seventh omnibus objection. If the  
6 Court would like, I can read the names of the individuals who  
7 filed responses to the thirty-seventh omnibus objection whose  
8 hearing will be adjourned to June 15<sup>th</sup>.

9 THE COURT: One moment. Yes, please do that.

10 MR. SWANSON: Thank you, Your Honor.

11 THE COURT: And again for the benefit of those who  
12 are present, Mr. Swanson is going to read the names of those  
13 persons whose claims -- the hearing of which have been  
14 adjourned to June 15<sup>th</sup> by the adjournment order that was  
15 entered last week. And if any of you are here when you hear  
16 your name called, if you hear your name called, and you don't  
17 have a copy of the Court's adjournment order filed April 7<sup>th</sup>  
18 yet, Mr. Swanson can give you a copy. Mr. Swanson, go ahead.  
19 What are the names?

20 MR. SWANSON: Sarah McCrary and Ronald Branam, Sr.

21 THE COURT: And also Janice Clarke, is she also --

22 MR. SWANSON: Janice Clarke, Your Honor, I believe  
23 she was the thirty-sixth omnibus objection.

24 THE COURT: Oh, she was.

1           THE COURT: Oh, I see, you're right, you're right.  
2 Okay. All right. So is Sarah McCrary present or is Ronald  
3 Branam, Sr. present? I hear nothing so those individuals  
4 whose claims objections -- whose claims are being adjourned  
5 are not here and I assume they got the word about the  
6 adjournment and that's why they're not here. So anyway, go  
7 ahead. What -- what next?

8           MR. SWANSON: Your Honor, the sole remaining  
9 response to the thirty-seventh omnibus objection was a letter  
10 filed by Theresa Hall. It was docketed by the Court as a  
11 letter and not as a response. And the city agrees with that  
12 characterization.

13           Ms. Hall requested that any further correspondence be  
14 sent to her address which is the same address that was listed  
15 on the proof of claim and the same address that the  
16 thirty-seventh omnibus objection was mailed to. The letter  
17 does not reply to the objection nor does it provide any  
18 additional documentation. Consequently the city asks that the  
19 letter be overruled.

20           THE COURT: Is Theresa Hall present or is anyone  
21 here on behalf of Theresa Hall? I hear nothing. Ms. Hall has  
22 not appeared at today's hearing. Based on that, as well as  
23 based on the fact that Ms. Hall did not file a timely response  
24 to the claim objection in the thirty-seventh omnibus claim  
25 objection which provided any documentation regarding her claim

1 at issue or was otherwise responsive to the substance of the  
2 city's objection to claim, the city's objection to her claim  
3 will be sustained as part of the order to be entered on the  
4 thirty-seventh omnibus objection to claims.

5 So Mr. Swanson, you'll include that in the order you're  
6 going to prepare on the thirty-seventh omnibus objection and  
7 you're also going to include in the order a provision  
8 sustaining the objection to all the other claims that have not  
9 been adjourned.

10 MR. SWANSON: Certainly, Your Honor. One question.

11 THE COURT: And I'll grant that. Yes.

12 MR. SWANSON: Thank you. One question for the  
13 Court. When the Court stated that it would like us to --  
14 would it like us to specifically address the letter filed by  
15 Ms. Hall? We have a provision in the order which says all  
16 responses have been overruled.

17 THE COURT: I would like you to mention her  
18 specifically in the order.

19 MR. SWANSON: Okay.

20 THE COURT: So when she receives the order she'll  
21 understand what happened specifically regarding her claim.

22 MR. SWANSON: Certainly.

23 THE COURT: So just do a little separate provision  
24 regarding her, please.

1 the responses to the thirty-sixth in the same manner.

2 THE COURT: That's fine.

3 MR. SWANSON: Thank you. Your Honor, the last  
4 omnibus objection set for hearing today is the thirty-eighth  
5 omnibus objection.

6 These are tax refund claims not subject to the claims  
7 process on this bankruptcy case. Your Honor, on October 22<sup>nd</sup>,  
8 the city filed its eighth amended plan. That plan was  
9 confirmed on November 12<sup>th</sup>.

10 With respect to tax refund claims, the plan provides that  
11 from and after the effective date, the city will continue to  
12 administer either directly or through a third party administer  
13 and pay all valid claims for income tax refunds and property  
14 tax refunds for which the city is responsible under applicable  
15 law regardless of when the applicable right to a refund arose  
16 in accordance with the city's pre-petition practices and  
17 procedures. The city expressly reserves the right to  
18 challenge the validity of any claim for an income tax refund  
19 or a property tax refund.

20 Thus tax refund claims are not subject to the claims  
21 process in this bankruptcy case because they are to be  
22 administered by the city in accordance with the city's  
23 pre-petition practices and procedures. We received --

24 THE COURT: It's fair to say, isn't it, Mr. Swanson,  
25 that such tax refund claims are not adversely affected or  
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1 impaired in any way by the confirmed Chapter 9 plan.

2 MR. SWANSON: That is correct, Your Honor, yeah.

3 THE COURT: And partly for that reason there is no  
4 need for creditors to file tax refund claims as proofs of  
5 claim in the bankruptcy case.

6 MR. SWANSON: That's correct, Your Honor.

7 THE COURT: All right. Go on.

8 MR. SWANSON: Your Honor, the city received two  
9 responses to the thirty-eighth omnibus objection. The first  
10 was a response by Eric Heckmann at docket number 11013. The  
11 second was a response by Dianne Thomas at docket 11037.

12 Your Honor, both claimants assert that they are entitled  
13 to a tax refund due to the alleged over payment of property  
14 taxes. As such both claims -- as such the claims of both  
15 claimants fall squarely within the provision of the plan that  
16 I just quoted. And both responses should thus be overruled  
17 and the claims disallowed for purposes of this bankruptcy  
18 case. Thank you.

19 THE COURT: All right. Is Eric Heckmann present, or  
20 is there anyone here on behalf of Eric Heckmann? I hear  
21 nothing. Is Dianne Thomas present? Ms. Thomas, please come  
22 on up.

23 MS. THOMAS: Good morning.

24 THE COURT: Good morning, Ms. Thomas. For the  
25 record you are Dianne Thomas?

1 MS. THOMAS: Yes, I am.

2 THE COURT: All right. Good morning. Ms. Thomas,  
3 you've heard -- I hope -- hope you heard what Mr. Swanson has  
4 just said in the hearing and what I've said about this  
5 thirty-eighth omnibus objection to claims and about your  
6 response. But what would you like to say about this?

7 MS. THOMAS: Well, Your Honor, I received my first  
8 tax bill from the city sometime in 2008 in response to a  
9 millage for garbage and trash pickup in the city to, you know,  
10 increase the effectiveness and the millage was passed. And  
11 the city sent me my first bill and I paid it.

12 And they continued to send two bills a year against the  
13 spring and winter bill. And I continued to write the checks  
14 myself, but at the same time, and I didn't find this out until  
15 year four, my mortgage company was also sending that same  
16 amount to the city. So they were receiving that double  
17 supplementary amount for four and a half years. And I just  
18 only discovered it when I was talking to an office in Lansing  
19 about my property.

20 And then they were the ones that told me that I had been  
21 double billed. So I -- in my mind this should have been  
22 something that they should have caught if not immediately, at  
23 least after year one or year two and I shouldn't even be  
24 caught up in this bankruptcy proceeding.

1 me. I'm retired and I did the right thing by the city, but  
2 the city did not do the right thing by me because they  
3 evidently were not efficient or effective in keeping good  
4 books as far as, you know, the property taxes were concerned.  
5 So I just really do think that I am entitled to this amount  
6 and I -- I should never have been caught up as a creditor.

7 THE COURT: All right. Well, Ms. Thomas, the -- the  
8 point of the city's objection is in effect that you have not  
9 been caught up. And were not intended to be caught up and in  
10 fact were not caught up as you -- as you put it in the city's  
11 bankruptcy case with respect to this -- this tax refund claim  
12 that you've made.

13 That claim is not adversely affected, it's not impaired  
14 in any way by the city's bankruptcy case or anything that's  
15 happened in the city's bankruptcy case. The confirmed plan,  
16 Chapter 9 plan in the city's bankruptcy case has a provision  
17 that makes that clear. That is that the city would continue  
18 to administer and pay all claims, valid claims for income tax  
19 refunds and property tax refunds and regardless of when the  
20 right to a refund accrued.

21 And so there's nothing in the plan that limits your  
22 claim, or proposes a specific treatment of your claim other  
23 than to say it will be administered and paid according to law  
24 essentially as if no bankruptcy had been filed. That's the  
25 idea.

1        And so the purpose of the city's objection to -- to your  
2 claim here in the thirty-eighth omnibus objection as with the  
3 other tax refund claims is, to make clear that these claims  
4 are not being allowed and treated in the bankruptcy case under  
5 the terms of the confirmed plan. But rather are treated  
6 separately outside of the bankruptcy case entirely.

7        Now that -- that objection is going to be sustained  
8 because that's an -- that's accurate. Your claim -- you did  
9 not need to file a proof of claim in the bankruptcy case and  
10 your proof of claim in the bankruptcy case is not going to  
11 result in any payment or other result with respect to your tax  
12 refund claim.

13       That's going to be dealt with entirely outside the  
14 bankruptcy process. So if you believe you have a claim and  
15 that claim has not been paid the way it should have been, or  
16 should have been paid a long time ago, whatever the case may  
17 be regarding this tax refund claim you have, you need to  
18 pursue that outside the bankruptcy case by whatever other  
19 non-bankruptcy procedures and means and litigation if  
20 necessary that you need to pursue.

21       And I understand you -- you may be -- since you don't  
22 have an attorney and the amount at stake is not so large that  
23 it -- it might be worthwhile getting an attorney --

24                  MS. THOMAS: Right.

1 the Bankruptcy Court or the bankruptcy case. That's the point  
2 of the city's objection and I agree with them on that. So  
3 this Court is not going to either help or hinder you in  
4 pursuing that claim and the city's objection to your claim --  
5 to your claim will be sustained for the reasons that the city  
6 has described and that I've described.

7 So, thank you. With respect to Eric Heckmann who did not  
8 appear today, the city's objection to his claim will be  
9 sustained as well on the merits and because of Mr. Heckmann's  
10 failure to appear.

11 So Mr. Swanson, the thirty-eighth omnibus objection will  
12 be sustained in -- in its entirety. And you'll prepare an  
13 order -- submit an order reflecting that.

14 MR. SWANSON: Yes, Your Honor.

15 THE COURT: All right. That concludes matters for  
16 today doesn't it?

17 MR. SWANSON: Yes, it does, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. SWANSON: Thank you.

20 THE CLERK: All rise. Court is adjourned.

21 (Court Adjourned at 11:41 a.m.)

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7 We certify that the foregoing is a correct transcript from the  
8 electronic sound recording of the proceedings in the  
9 above-entitled matter.

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/s/Deborah L. Kremlick, CER-4872

Dated: 5-2-16

Jamie Laskaska

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